

**REMARKS**

Claims 1-22 are pending the application.

**I. Detailed Action**

**A) Claim Objections**

Claim 15 is rejected under 35 U.S.C. § 112, second paragraph, because the Examiner is concerned that this claim is drawn to a “method,” while not including any particular steps. Applicant amends claim 15 to have it correspond more directly to claim 1.

**B) 35 U.S.C. § 103**

Claims 1-4, 7, 8 and 10-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Oster (U.S. Patent No. 4,844,420).<sup>1</sup>

Claim 1 recites, *inter alia*, that the mounting means comprises a tubular lower portion that is made of a material which is shaped to co-operably engage around a tapered upper portion of the road traffic cone, such that the material of the tubular lower portion of the barrier unit is operable to be deformed around the road traffic cone in an interference fit when the barrier unit is pressed into place.

Thus, the barrier unit, via the tubular lower portion, is operable to be deformed around the road traffic cone. Oster does not disclose this feature via its slot 24. It is respectfully submitted that the existence of the slot 24 in Oster would not have taught nor suggested a tubular lower portion that is operable to be deformed around a road traffic cone. Instead, the barrier 10 of Oster is made of a rigid material, so that if it were applied to a top of road traffic cone, it would be the road traffic cone itself that would be deformed and not the barrier unit. Moreover,

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<sup>1</sup> The Examiner has withdrawn the previous application of Oster under 35 U.S.C. § 102(b).

based on Oster's use of the adapter member 36, the barrier 10 could not even be suitably applied to a road traffic cone. The barrier 10 would not fit properly on a road traffic cone, let alone be deformable so as to deform around the road traffic cone in an interference fit.

To assist the Examiner's appreciation of Applicant's contribution, some fundamental background information is provided. Systems may generally comprise (as Oster comprises) a tape dispensing head and an upright shaft which raises the head to a suitable level. No one has yet taken such a head portion and turned it into a stand alone cartridge with a downward tubular extension, which is shaped to co-operably engage around a tapered upper portion of a road traffic cone, such that the material of the tubular lower portion of the barrier unit is operable to be deformed around the road traffic cone in an interference fit when the barrier unit is pressed into place. Oster's device surely does not provide this feature.

Rather than requiring its own upright, the barrier unit of claim 1 can be used as the basis for a temporary deployable road barrier in a particularly effective manner. There are no prior barriers that are designed for such use with road traffic cones. Thus, the invention of claim 1 will fill a void by providing a reliable and secure barrier for use with a road traffic cone. Applicant respectfully submits that the inventive aspects of claim 1 must be appreciated. Compared with prior art barrier systems, the barrier unit of claim 1 offers significant additional functionality.

In effect, claim 1 provides a tape cartridge with an adaptive mounting means, which results in a real and useful utility for use with a road traffic cone as a temporary barrier. Applicant submits herewith a Skipper<sup>TM</sup> brochure to illustrate beneficial aspects that are

provided by the features of claim 1. As shown, the barrier unit has a novel application of being mounted on a cone. Clearly, Oster's device would not be suitable for this application.

Aside from claim 1 requiring the material of the tubular lower portion of the barrier unit to be operable to be deformed around the road traffic cone, there is not even a teaching in Oster of providing an interference fit when the barrier unit is pressed into place. In particular, there is no teaching of even a frictional contact between the bottom of housing 12 and adapter 36 in Oster. It is undoubtedly the case that the bottom of the tubular housing 12 surrounds the adapter 36, and is fixed in position. However, there is no specific disclosure of any frictional contact between the housing 12 and the adapter 36, and the use of a fixing screw 46 in Oster, if anything, indicates that the opposite may be the case. Further, it is clear that the upright 22 in Oster is not a road traffic cone. As a skilled artisan will appreciate, a road traffic cone is typically used to guide vehicular road traffic and has a cone shape, verses the pole-shaped device of Oster that is for pedestrian traffic.

The Examiner asserts that "*Oster does not teach the tapered configuration; however, it is well known to use tapered configurations with roadway barriers.*" (See Office Action, page 3, lines 8-11.) The Examiner's allegation is not capable of instant and unquestionable demonstration as being "well-known" in the art, as required by MPEP. Section 2144.03. The Examiner's attention is respectfully directed to this section of the MPEP, where it is set forth that if Applicant traverses the Examiner's taking of Official Notice, the Examiner must provide documentary support for his position. In the present case, there is no documentary support provided for the position of the Examiner. Thus, for this additional reason, claim 1 is deemed patentable over the art.

Moreover, it has long been held that the Examiner must “show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for a combination in the manner claimed.” *In re Rouffet*, 47 USPQ2d 1453 (Fed.Cir. 1998). The grounds of rejection do not support any reason why a skilled artisan with no knowledge of the claimed invention would have modified Oster to provide the claimed features, including the aspects provided by the particularly claimed mounting means of claim 1. Instead, Oster clearly discloses that its device is fastened to the post member 22 using threaded screws.

For at least these reasons, Applicant submits that the rejection of claim 1 under 35 U.S.C. § 103(a) should be withdrawn. Independent claim 16 is deemed patentable over Oster for reasons similar to those provided in regard to claim 1. For example, Oster clearly does not teach or suggest the operations of providing at least one road traffic cone; pressing a tape cartridge around an upper tapered outer portion of said at least one road traffic cone, so that a tubular lower portion of the tape cartridge forms an interference fit with the tapered upper portion of the road traffic cone; dispensing tape from said tape cartridge; engaging a leading edge of the dispensed tape from the cartridge to a receiving means on another such cartridge or to an equivalent receiving means on an alternative fixed location. Oster also, for example, does not teach or suggest the features of claim 21, which require the mounting means to flexibly deform around the outer portion of the traffic cone as the barrier unit is pressed into place.

Dependent claims 2-4, 7, 8, 10-15 and 17-22 are likewise deemed patentable over Oster, at least by virtue of their respective dependencies upon independent claims 1 and 16.

Claims 5 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Oster and further in view of Signorelli (U.S. Patent No. 6,053,657). Oster fails to disclose tape having surface patterns or hazard warning markings, and also fails to disclose tape having a reflective surface. The Examiner therefore relies on Signorelli for allegedly disclosing such features. Applicant submits that claims 5 and 6 are deemed patentable over the references at least by virtue of their dependencies on claim 1.

*Claim 9*

Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Oster and further in view of Langlie, et al. (U.S. Patent No. 6,595,496 [hereinafter "Langlie"]). Oster fails to disclose the claimed releasable locking means and therefore relies on the lock lever 54 of Langlie. Applicant respectfully submits that claim 9 is patentable over the references at least by virtue of its dependency upon claim 1.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Patent Application No. 10/509,389

Q83815

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
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WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

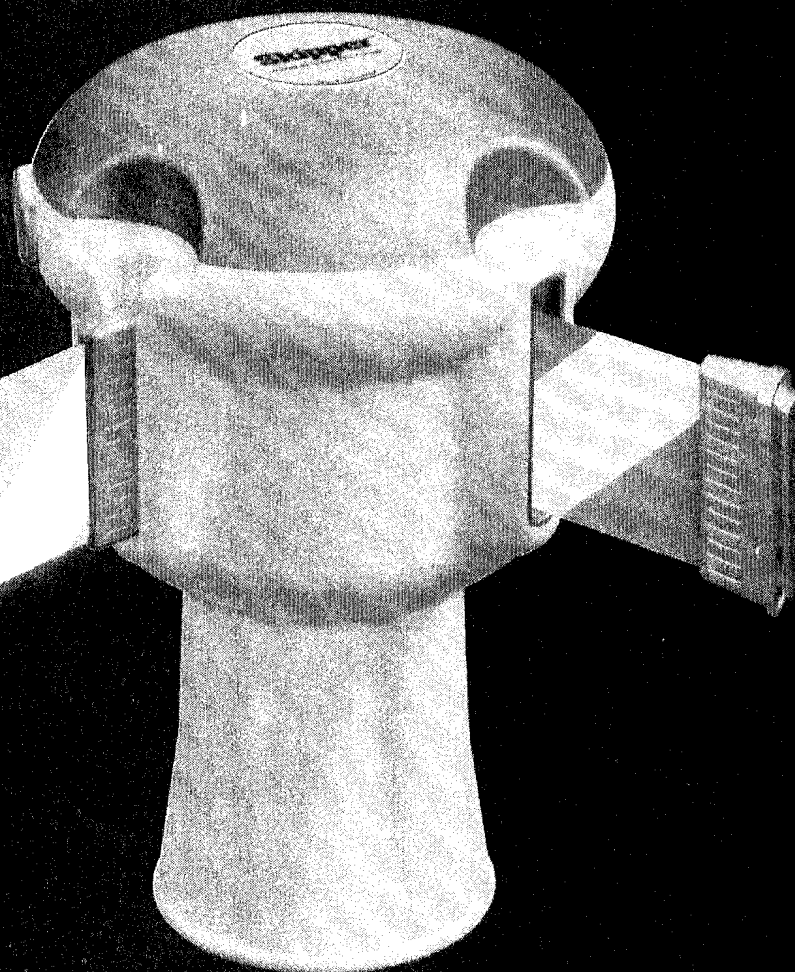
Date: May 22, 2007



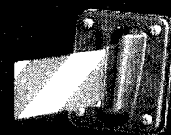
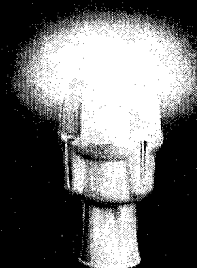
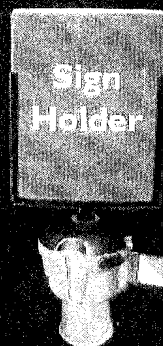
Daniel V. Williams  
Registration No. 45,221

# Skipper™

COMMENDED  
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AWARDS  
2005  
Industrial Product  
Of The Year



## The total safety management solution



# Skipper

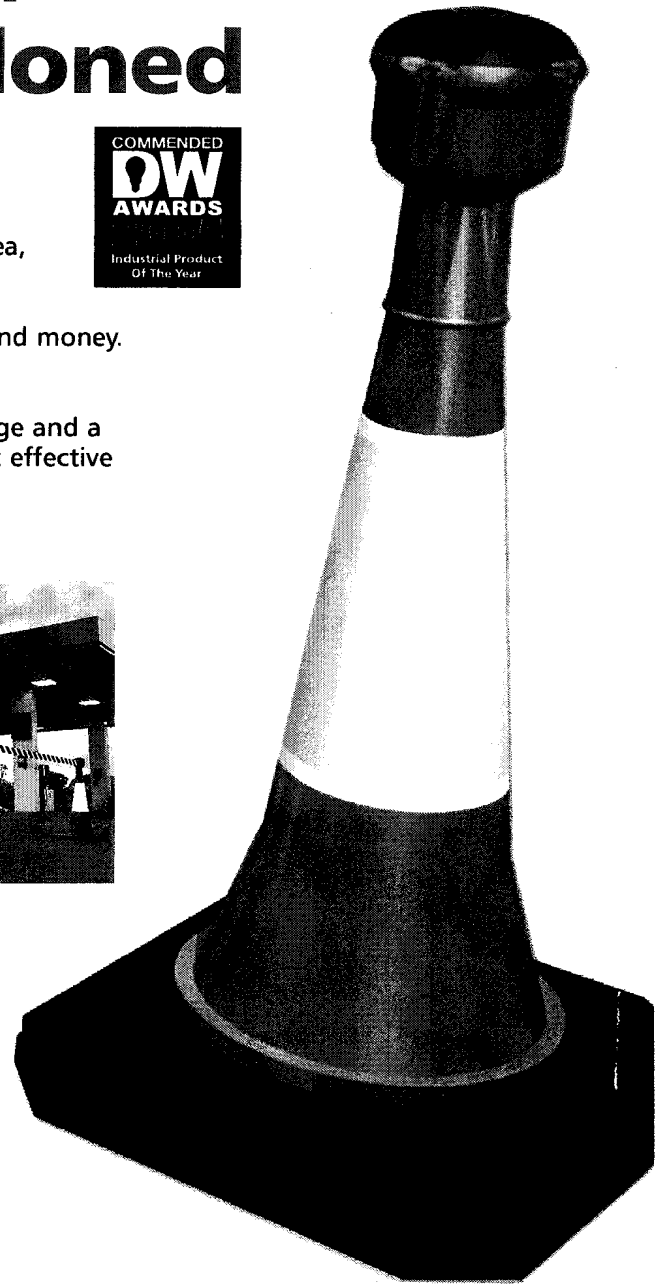
## Whatever your job, Skipper has it cordoned off in no time

Skipper: the award winning, unique way to cordon off any outside area, creating safer environments with high visibility retractable 9m tape.



Simply clicks on top of most traffic cones, saving time, storage space and money. It pays for itself in months over throw away barrier tape.

With a full compliment of functional accessories including light, signage and a fixing receiver for walls and vehicles, it really is the best and most cost effective barrier product on the market.



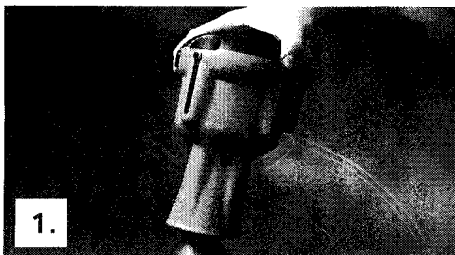
### THE BENEFITS:

- Safer working environments
- Cost saving against cones and boards
- Closes lanes
- Robust and durable
- Less storage
- Perfect for large and small projects

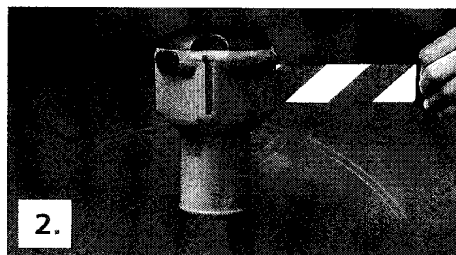
### THE MARKET SECTORS:

- Traffic & highways
- Civil & construction
- Emergency services
- Facilities management
- Outside events
- Utilities & many more

It's so easy to cordon off your work area in just 3 easy steps:



1. Clip the Skipper unit on top of the cone



2. Pull the tape out to the desired length

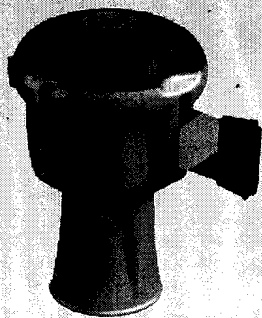


3. Clip the tape into the next Skipper unit

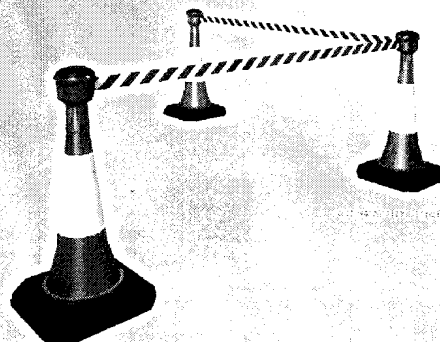


# Skipper<sup>TM</sup>

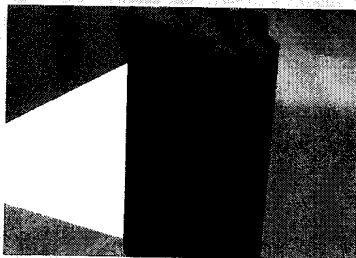
## Product Range Specifications



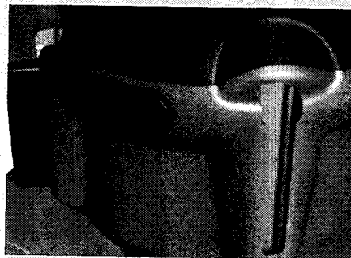
height: 240mm  
width: 145mm  
cone hole: 90mm  
tape width: 48mm  
weight: 800g



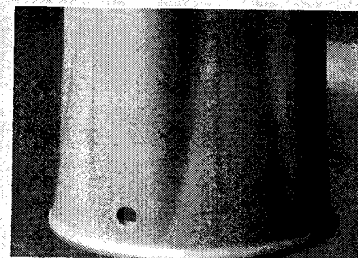
Removable top for additional attachments ie. light / sign holder



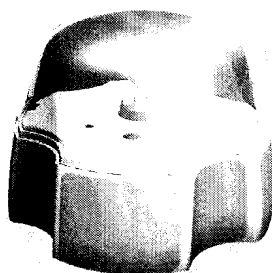
Unique tape end clip for attachment when cones are not available



Lockable button to prevent unwanted spooling of tape



Screw hole for permanent fixture



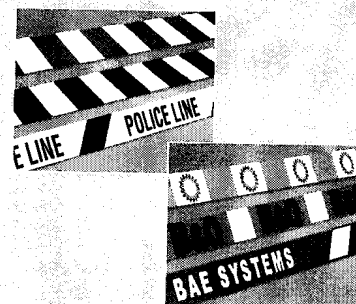
height: 112mm  
width: 140mm  
weight: 500g (including batteries)  
Conforms to BS3143 part 2 1990



height: 325mm  
width: 213mm  
to fit A4 prints  
weight: 550g



height: 100mm  
width: 80mm  
weight: 40g



material: reinforced nylon  
tape width: 48mm

TAPE EXTENDS UP TO 9M  
REDUCING THE NEED FOR CONES

Call now for more info on: +44 (0)1625 538 640

The Skipper Retractable Barrier System: the only patented product of its type

# A full compliment of functional unique accessories

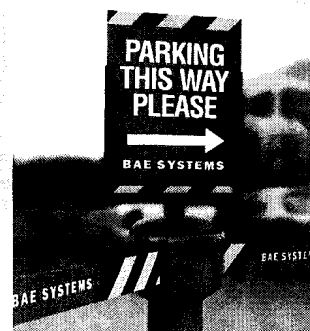
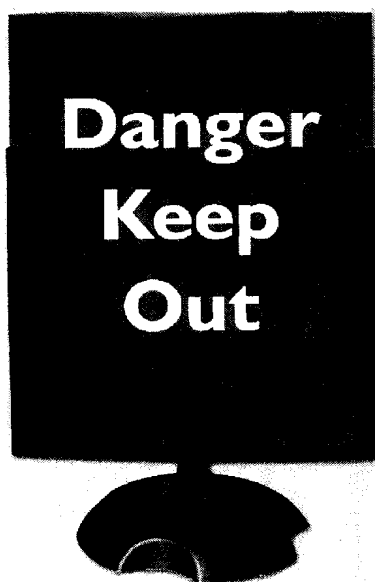
## Skipper Light

A multi function LED warning light that is fully rechargeable. With permanent or flashing facility available in UK, European and US rates of flashes per minute. Also includes a light sensor for automatic activation which can be turned off. Conforms to BS3143 part 2 1990. Available in Amber or Blue light.



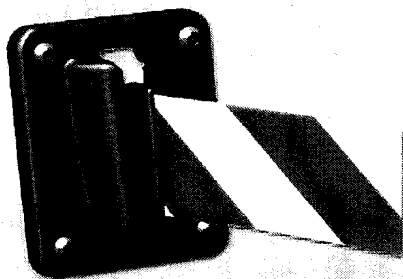
## Skipper Sign Holder

A4 sign holder clicks on top of the unit to display any warnings or promotional messages. Simply slide your message into the polycarbonate u-shaped sleeve.



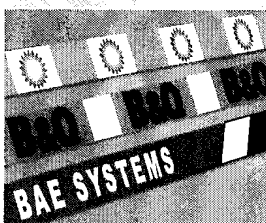
## Skipper Wall / Vehicle Bracket

Receiver for walls or alternatively magnetic for vehicles. Allowing the end unit to attach direct without the need for a cone.



## Skipper Standard Tape

Our standard tapes are all durable, dip coated and unrippable. Available in chevron Red/White, Yellow/Black or Blue/White Police Line.



## Skipper Branded Tape

Our branded tapes are made to the same specifications. Available in up to 4 colours for logos, promotions or warning messages.

BAE SYSTEMS is a registered trademark of BAE SYSTEMS plc. All other trademarks are the property of their respective owners.